



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

150306232-6491-01

RIN 0648-BE96

Fisheries of the Northeastern United States; Monkfish; Framework Adjustment 9

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: We are proposing to approve and implement regulations submitted by the New England and Mid-Atlantic Fishery Management Councils in Framework Adjustment 9 to the Monkfish Fishery Management Plan. This action is necessary to better achieve the goals and objectives of the management plan and achieve optimum yield. The proposed action is intended to enhance the operational and economic efficiency of existing management measures and increase monkfish landings.

DATES: Public comments must be received by [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2015-0045, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-

NMFS-2015-0045, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930-2276. Mark the outside of the envelope: “Comments on Monkfish Framework 9.”

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

New England Fishery Management Council staff prepared an environmental assessment (EA) for Monkfish Framework Adjustment 9 that describes the proposed action and other considered alternatives. The EA provides a thorough analysis of the biological, economic, and social impacts of the proposed measures and other considered alternatives, a preliminary Regulatory Impact Review, and economic analysis. Copies of the Framework 9 EA are available on request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

This document is also available from the following internet addresses:

<http://www.greateratlantic.fisheries.noaa.gov/> or <http://www.nefmc.org>.

FOR FURTHER INFORMATION CONTACT: Allison Murphy, Fishery Policy Analyst, (978) 281-9122.

SUPPLEMENTARY INFORMATION:

Background

The monkfish fishery is jointly managed under the Monkfish Fishery Management Plan (FMP) by the New England and the Mid-Atlantic Fishery Management Councils. The fishery extends from Maine to North Carolina from the coast out to the end of the continental shelf. The Councils manage the fishery as two management units, with the Northern Fishery Management Area (NFMA) covering the Gulf of Maine (GOM) and northern part of Georges Bank (GB), and the Southern Fishery Management Area (SFMA) extending from the southern flank of GB through Southern New England (SNE) and into the Mid-Atlantic (MA) Bight to North Carolina.

Monkfish are often caught while fishing for Northeast (NE) multispecies, particularly in the NFMA. This has resulted in two closely related fisheries as a majority of monkfish vessels operating in the NFMA are issued both monkfish and NE multispecies permits. Because this action proposes to modify some requirements for NE multispecies sector vessels, it is also considered Framework Adjustment 54 to the NE Multispecies FMP.

The monkfish fishery is primarily managed by landing limits and a yearly allocation of monkfish days-at-sea (DAS) calculated to enable vessels participating in the fishery to catch, but not exceed, the target total allowable landings (TAL) and the annual

catch target (ACT, the TAL plus an estimate of expected discards) in each management area. Both the ACT and the TAL are calculated to maximize yield in the fishery over the long term. Based on a yearly evaluation of the monkfish fishery, the Councils may revise existing management measures through the framework provisions of the FMP, including DAS allocations and landing limits, to better achieve the goals and objectives of the FMP and achieve optimum yield (OY), as required by the Magnuson-Stevens Fishery Conservation and Management Act. Amendment 5 (76 FR 30265; May 25, 2011) defined OY as fully harvesting the ACT.

We completed an operational stock assessment in May 2013 to update the state of the monkfish stocks and provide projections to assist with setting future catch levels. The 2013 assessment update revised existing biological reference points, including a substantial reduction in the overfishing level, and concluded that the two monkfish stocks are neither overfished nor subject to overfishing.

The monkfish fishery has failed to fully harvest the available ACT each year since 2011, particularly in the NFMA where the under-harvest has been more substantial. As a result, the fishery has not been achieving OY in either area in recent years. The Councils developed Framework 9 to enhance the operational efficiency of existing management measures in an effort to better achieve OY.

Proposed Measures

1. Monkfish Possession Limits in the NFMA

This action would revise monkfish possession limits specified in 50 CFR 648.94 to help increase monkfish landings and better achieve the ACT caught in the NFMA. Specifically, this measure would eliminate the monkfish possession limit for monkfish

Category C and D permitted vessels (referred to as Category C and D vessels in this section) fishing under both a NE multispecies and monkfish day-at-sea (DAS) in the NFMA.

Possession limits differ based on the type of DAS being used by a vessel. Table 1 includes a summary of the current monkfish tail weight possession limits for a vessel fishing under the various DAS available in the NFMA. We are proposing to add another tier to the possession limit system without changing the existing possession limits for a vessel fishing on a NE multispecies DAS or a monkfish DAS. We propose to allow a Category C or D vessel that is fishing under both a NE multispecies and a monkfish DAS in the NFMA to retain an unlimited amount of monkfish (Table 1).

Table 1. Proposed and existing monkfish tail weight possession limits for monkfish Category C and D permitted vessels fishing on a DAS in the NFMA

	DAS Type	Category C Possession Limit	Category D Possession Limit
Existing Measures	NE Multispecies A DAS only	600 lb (272.16 kg)	500 lb (226.80 kg)
	Monkfish DAS only	1,250 lb (566.99 kg)	600 lb (272.16 kg)
Proposed Measure	NE Multispecies A and Monkfish DAS	Unlimited	Unlimited

Note: Tail weight x 2.91 = whole weight

As is currently the case, a Category C or D vessel would still be required to declare a trip at the dock under a NE multispecies A DAS with the option to declare a monkfish-DAS while at sea, and then declare a monkfish DAS while at sea in order or to be exempt from the monkfish possession limits. Alternately, a Category C or D vessel would be required to declare a concurrent NE Multispecies A DAS and a monkfish DAS at the dock prior to starting a trip in order or to be exempt from the monkfish possession limits. Under existing regulations, however, a Category C or D vessel cannot begin a trip

under a monkfish-only DAS and add a NE Multispecies A DAS while at sea in order or to be exempt from the monkfish possession limit. A provision to allow this and provide this flexibility is also considered in this proposed rule and discussed in detail below.

Without this change, a Category C or D vessel that does not declare a trip under a NE multispecies A DAS and a monkfish DAS (or option to declare a monkfish DAS while at sea) at the dock prior to starting a trip would not be exempt from the monkfish possession limits under this action. In such cases, the existing monkfish possession limits for Category C and D vessels fishing only under a NE multispecies DAS or a monkfish DAS would remain the same, as outlined in Table 1.

2. NE Multispecies DAS Declaration Requirements

This action would revise NE multispecies DAS declaration requirements to help increase operational flexibility and potentially increase monkfish landings in the NFMA. Functionally, this would allow a Monkfish Category C and D vessel enrolled in a NE multispecies sector (referred to as a Category C and D sector vessel in this section) fishing in the NFMA to declare a NE multispecies A DAS while at sea, through the vessel monitoring system (VMS), when certain conditions apply.

We propose to allow a Category C and D sector vessel fishing on either a NE multispecies non-DAS sector trip or a monkfish-only DAS exclusively in the NFMA to declare a NE multispecies A DAS while at sea. Currently, a Category C or D sector vessel that is not declared into the monkfish fishery, but is declared into the NE multispecies fishery on a non-DAS sector trip, is limited to an incidental possession limit for monkfish. In the NFMA, which overlaps with the GOM and GB Regulated Mesh Areas (RMAs), the incidental monkfish possession limit is up to 5 percent of total weight

of fish on board.

This measure would also increase flexibility by allowing a vessel to fish in a larger geographic area. Currently, any Category C or D vessel must use its monkfish-only DAS exclusively in a monkfish exempted fishery. An exempted fishery is an area and season demonstrated to have minimal bycatch of NE multispecies when using a specific type of gear. The only monkfish exempted fishery that overlaps with the NFMA is in the Gulf of Maine/Georges Bank Dogfish and Monkfish Gillnet Exemption Area, as described in § 648.80(a)(13). Allowing a vessel to declare a NE multispecies DAS while at sea would allow that vessel to fish outside of these specified areas and retain NE multispecies for the remainder of the trip.

Under this proposed measure, monkfish possession limits would increase from the incidental monkfish possession limit to the monkfish possession limits for Category C and D sector vessels fishing on a NE multispecies A DAS in the NFMA, as summarized in Table 2. We are also proposing to allow a Category C or D sector vessel fishing exclusively in the GOM/GB Dogfish and Monkfish Gillnet Exemption Area to change its VMS declaration from a monkfish-only DAS to a combined monkfish and NE multispecies A DAS while at sea. Under this proposed measure, monkfish possession limits for Category C and D sector vessels would become unlimited, as described in Table 2, should we also approve changes to the possession limits described above.

Table 2. Proposed and existing monkfish tail weight possession limits for monkfish Category C and D sector vessels fishing on a DAS in the NFMA

	DAS Type	Category C Possession Limit	Category D Possession Limit
Existing Measures	No DAS	up to 5 percent of total weight of fish on board	up to 5 percent of total weight of fish on board

	NE Multispecies A DAS only	600 lb (272.16 kg)	500 lb (226.80 kg)
	Monkfish DAS only	1,250 lb (566.99 kg)	600 lb (272.16 kg)
Proposed Measure	NE Multispecies A and Monkfish DAS	Unlimited	Unlimited

While we are proposing this measure as recommended by the Councils, we have some concerns. First, our analyses suggest that the necessary implementation costs may not exceed the benefits to the fishery. This measure will require VMS software modifications to allow vessels the ability to declare a NE multispecies A DAS while at sea. We expect this VMS change to cost roughly \$100,000, based on other, recent VMS software changes we have implemented. The cost associated with VMS changes is primarily because 4 approved vendors for the Greater Atlantic Region will all be required to update their software onboard vessels using their VMS equipment. This cost is borne solely by the Agency. The EA for Framework 9 identified only a small percent (1.6 percent) of vessels that approached applicable trip limits for non-DAS sector trips and monkfish-only trips. In addition, the Framework 9 EA indicates that few trips would have yielded additional monkfish landings in recent fishing years had the proposed NE multispecies DAS at-sea declaration change been in place. Based on this information, this measure may do little to help the fishery achieve optimum yield. We are interested in public comment on the cost, effectiveness, and utility of this proposed measure. We intend to further evaluate the potential cost/benefit of providing this at-sea declaration flexibility, as well as public comment, when considering the approvability of this measure

Proposing to allow Category C and D sector vessels fishing on a monkfish-only DAS in the NFMA to declare a NE multispecies A DAS while at sea may not provide as

many benefits as first anticipated. As described above, only the GOM/GB Dogfish and Monkfish Gillnet Exemption overlaps with the NFMA. This exempted fishery is open from July 1 through September 14, annually, for a vessel using gillnet gear in the waters of Cape Cod Bay and off southern Maine. Given that the majority of the fleet in the NFMA fishes with trawl gear and cannot take advantage of monkfish-only DAS because they are excluded from this exempted fishery, we are concerned that only a small number of vessels that use gillnet gear would benefit from this flexibility.

Second, allowing a vessel to declare a NE multispecies A DAS after starting a trip on a monkfish-only DAS could potentially circumvent existing NE multispecies pre-trip notification requirements for deploying industry-funded at-sea monitors. We believed, at the time the Council took final action, that limiting the declaration change to sector vessels would mitigate these concerns. Since Council final action, we have continued to discuss the nuances of this potential provision with Regional Office NE multispecies and Northeast Fisheries Science Center, Fishery Sampling Branch staff. We remain concerned that the ability to switch from a monkfish-only DAS to a NE multispecies A DAS would allow vessels to bypass sector monitoring and reporting requirements.

A potential remedy to this loophole is an alternative that would require a vessel to comply with existing pre-trip notification requirements at § 648.11(k) and be subject to sector-funded at-sea monitoring to be able to change declarations at-sea. In addition, we could also require a vessel to submit a sector trip-start hail, described at §648.10(k)(1)(iii), so that we can identify trips that may use this declaration flexibility.

We recognize that this potential solution may be somewhat less flexible than what was intended by the Councils and was not explicitly contemplated or discussed by the

Councils. However, if not imposed, the proposed measures, as recommended, would allow vessels to circumvent sector-related reporting requirements, and inclusion of these measures pursuant to the authority provided to the Secretary of Commerce in section 305(d) of the Magnuson-Stevens Act may therefore be necessary to implement this portion of Framework 9 consistently with the Act. Adding NE multispecies monitoring requirements on these trips could complicate the Northeast Fisheries Observer Program and At-Sea Monitoring Program sea-day schedule assignments, coverage accomplishments, and future coverage needs. Further, fewer fishermen may use the flexibility option if they are at risk of being assigned an at-sea monitor, which industry has to pay for. We are soliciting specific comment from the Councils and the public on both the at-sea declaration flexibility as recommended by the Councils and this potential solution.

If this remedy solution is approved, the pre-trip notification system (PTNS) must be modified to accept monkfish-only trips. Currently, PTNS will only accept trips declared into the NE multispecies (i.e., non-DAS sector trips and A DAS trips) and Squid, Mackerel, and Butterfish fisheries. Monkfish-only trips would need to be added to the system and assigned a selection protocol. We are unsure about the associated costs for such a change.

Finally, we have some enforcement concerns with the proposal to allow Category C and D sector vessels fishing on a monkfish-only DAS in the NFMA to declare a NE multispecies A DAS while at sea. Currently, a Category C or D sector vessel fishing on a monkfish-only DAS in an exempted fishery is required to discard all NE multispecies. Similarly, a Category C or D sector vessel fishing on a NE multispecies A DAS or on a

non-DAS sector trip is currently required to retain all legal-sized groundfish. Should this measure be approved, a Category C or D sector vessel would begin a trip discarding all NE multispecies, and then be required to retain all legal-sized NE multispecies, once the vessel declares a NE multispecies DAS. This may introduce confusion about discarding and catch reporting requirements for the industry and complicates the enforceability of this measure. To help provide clarity, pursuant to the authority provided to the Secretary of Commerce in sector 305(d) of the Magnuson-Stevens Act, we could revise the sector discard and operations plan prohibitions at § 648.14(k)(14)(iv) and (viii) and the sector monitoring requirements at § 648.87(b)(1)(v)(A) to make clear that there would be different discard requirements before and after a vessel declares a NE multispecies DAS. We are also soliciting specific comment from the Councils and the public on clarifying the discard requirements.

It should be noted that we may need to delay effectiveness of this measure, should it be approved. Modifications to VMS would likely take months to complete and we are uncertain how long the necessary PTNS changes may take to implement.

3. Minimum Mesh Size Requirements in the SFMA

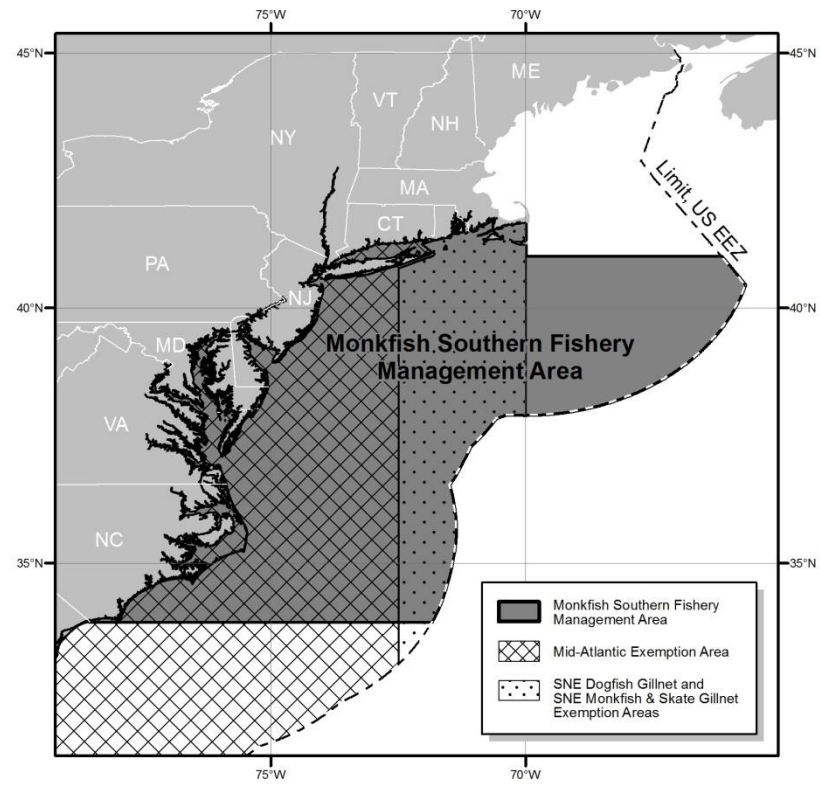
We are proposing to revise minimum mesh size requirements at § 648.80(b) and (c) and § 648.91(c)(1)(iii) to increase operational flexibility. The changes would allow vessels to target both monkfish and dogfish while on the same trip. Currently, the following restrictions apply in the SFMA:

- A category C or D vessel fishing on a combined monkfish and NE multispecies A DAS in the SFMA must fish with gillnets no smaller than 10-inches (25.4-cm) diamond mesh;

- Any monkfish-permitted vessel fishing in the SNE Dogfish Gillnet Exemption Area may retain dogfish and incidental limits of other species (excluding monkfish) allowed in the SNE Exemption Area; and
- Any monkfish-permitted vessel fishing in the SNE Monkfish and Skate Gillnet Exemption Area may retain monkfish and skate up to a specified limit and incidental limits of other species (excluding dogfish) allowed in the SNE Regulated Mesh Area (RMA).

The proposed measure would modify a vessel's minimum gillnet mesh size requirements when fishing on a monkfish DAS using roundfish (also called stand-up) gillnets in the SFMA. It would also modify the minimum gillnet mesh size requirements in a smaller portion of the SFMA referred to as the Mid-Atlantic Exemption Area. Finally, this measure changes possession limit requirements in the SNE Dogfish Gillnet Exemption Area and dogfish in the SNE Monkfish and Skate Gillnet Exemption Area so that a vessel may retain both monkfish and dogfish. Please see Figure 1 for a display of these areas.

Figure 1. SNE Dogfish, Monkfish, and Skate Gillnet Exemption Area and Mid-Atlantic Exemption Area



We are proposing to allow a Category C or D vessel fishing under both a NE multispecies and a monkfish DAS in the SFMA to use 6.5-inch (16.5-cm) roundfish gillnets. We are also proposing to allow any monkfish-permitted vessel fishing on a monkfish-only DAS in the Mid-Atlantic Exemption Area to use 5-inch (12.7-cm) roundfish gillnets in the Mid-Atlantic Exemption Area. Finally, we are proposing to allow a monkfish-permitted vessel fishing on a monkfish-only DAS in either the SNE Dogfish Gillnet Exemption Area or the SNE Monkfish and Skate Gillnet Exemption Area to retain both monkfish and dogfish on the same trip when declared into either area. This measure would also limit a vessel to using 50 roundfish gillnets in the SNE Dogfish and the Mid-Atlantic Exemption Areas. Table 3 summarizes the proposed measures (highlighted in bold) and also includes existing seasonal, gear, and DAS requirements.

Table 3. Summary of Proposed (Bold) and Other Existing Requirements in the Monkfish SFMA

	NE Multispecies DAS anywhere in the SFMA	SNE Dogfish Gillnet Exemption Area	SNE Monkfish and Skate Gillnet Exemption Area	Mid-Atlantic Exemption Area
Minimum gillnet mesh	6.5 inches (16.51 cm) for standup nets	6 inches (15.24 cm) for standup nets	10 inches (25.4 cm) for all nets	5 inches (12.7 cm) for standup nets
DAS	NE multispecies and monkfish	Monkfish	Monkfish	Monkfish
Season	Year-round	May 1 – October 31	Year-round	Year-round
Gear Limits	<u>All Trip gillnet vessels:</u> Unlimited <u>Day gillnet vessel in the GB RMA:</u> 50 gillnets <u>Day gillnet vessel in the SNE RMA:</u> 75 gillnets <u>Day gillnet vessel in the MA RMA:</u> 75 gillnets	<u>Category A/B:</u> 160 gillnets <u>Category C/D:</u> 150 gillnets <u>Roundfish gillnet limit:</u> 50 gillnets	<u>Category A/B:</u> 160 gillnets <u>Category C/D:</u> 150 gillnets	<u>Category A/B:</u> 160 gillnets <u>Category C/D:</u> 150 gillnets <u>Roundfish gillnet limit:</u> 50 gillnets
Regulatory change to possess both Monkfish and	No	Yes	Yes	Yes

Dogfish				
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A vessel taking advantage of these smaller minimum mesh size requirements must still comply with all other requirements of fishing in the SFMA or in the Exemption Areas. Existing monkfish possession limits for vessels issued a limited access monkfish permit and fishing in the SFMA would remain the same.

4. Corrections and Clarifications to Existing Regulations

This proposed rule would correct a number of inadvertent errors, omissions, and ambiguities in existing regulations in order to ensure consistency with, and accurately reflect the intent of, previous actions under the FMP, or to more effectively administer and enforce existing and proposed provisions pursuant to the authority provided to the Secretary of Commerce in section 305(d) of the Magnuson-Stevens Act. The following proposed measures are listed in the order in which they appear in the regulations.

In § 648.10, paragraphs (b)(3), (g)(1), (g)(3), and (g)(3)(ii)(A) would be revised to enhance readability and more clearly state the regulatory requirements.

In § 648.92, paragraph (b)(1)(i) would be revised to enhance readability and more clearly state the regulatory requirements. A reference to the DAS requirements in the SFMA and adjustment for gear conflicts would also be removed, as these references are unnecessary. The reference to DAS requirement in the SFMA in § 648.92(b)(1)(ii) is not needed because that referenced section further explains how the overall DAS allocation may be used. The reference to adjustment for gear conflicts in § 648.96(b)(3) states that the Councils may develop recommendations to address gear conflicts. This reference is unnecessary because those measures would be captured in the regulations and appropriately cross-referenced.

In § 648.94, paragraph (b)(3)(i) would be revised to enhance readability and more clearly state the regulatory requirements. A reference to Category F permits would also be deleted for clarity because it may cause confusion with regard to the possession limits for Category F permits. Possession limit requirements for Category F permits are more clearly outlined in § 648.95.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has made a preliminary determination that this proposed rule is consistent with the Monkfish and NE Multispecies FMPs, Framework 9, provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The Council prepared an analysis of the potential economic impacts of this action, which is included in the draft EA for this action (see

ADDRESSES to obtain a copy of the EA) and supplemented by information contained in the preamble of this proposed rule. The SBA defines a small business in the commercial harvesting sector as a firm with receipts (gross revenues) of up to \$5.5 million for shellfish businesses and \$20.5 million for finfish businesses. There are 397 distinct ownership entities based on calendar year 2014 permits, the most complete full-year data

available for the Council's analysis, that are directly regulated by this action. Of those 397 entities, 381 entities are categorized as small and 16 entities are categorized as large per the SBA guidelines.

This proposed rule is not expected to place small entities at a competitive disadvantage to large entities. All of the large entities impacted by the proposed action are primarily engaged in shellfish fishing. These large entities may not benefit to the same degree as small entities because the majority of small entities are primarily engaged in finfish fishing. The proposed rule would liberalize trip limits, increase operational flexibility, and relax minimum mesh size requirements, directly benefiting fishermen that are primarily engaged in finfish fishing. In terms of profitability, both small and large entities should benefit from increased operational flexibility from the proposed action, though these benefits are likely to be marginal.

There is no reason to believe small entities will be negatively affected in any way by the proposed measures identified in this rule's preamble. Overall, the net impact on profits from each proposed measure is expected to be slightly positive to neutral because these measures relieve restrictions. Therefore, this action is not expected to have a significant economic impact on a substantial number of small entities.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: June 20, 2016

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.10, revise paragraphs (b)(3), (e)(5)(ii), (g)(1), and (g)(3) to read as follows:

§ 648.10 VMS and DAS requirements for vessel owners/operators.

* * * * *

(b) * * *

(3) A vessel issued a limited access monkfish, Occasional scallop, or

Combination permit, whose owner elects to provide the notifications required by this section using VMS, unless otherwise authorized or required by the Regional Administrator under paragraph (d) of this section;

* * * * *

(e) * * *

(5) * * *

(ii) Notification that the vessel is not under the DAS program, the Access Area Program, the LAGC IFQ or NGOM scallop fishery, or any other fishery requiring the operation of VMS, must be received by NMFS prior to the vessel leaving port. A vessel may not change its status after the vessel leaves port or before it returns to port on any fishing trip, unless

(A) The vessel is a scallop vessel and is exempted, as specified in paragraph (f) of this section, or

(B) Unless the vessel is a NE multispecies sector vessel with a Monkfish Category C or D permit declaring a NE multispecies DAS while at sea, as specified in paragraph (g)(3)(ii) of this section.

* * * * *

(g) * * *

(1) The owner or authorized representative of a vessel that is required to or elects to use VMS, as specified in paragraph (b) of this section, must notify the Regional Administrator of the vessel's intended fishing activity by entering the appropriate VMS code prior to leaving port at the start of each fishing trip except:

(i) If notified by letter, pursuant to paragraph (e)(1)(iv) of this section, or

(ii) The vessel is a scallop vessel and is exempted, as specified in paragraph (f) of this section.

* * * * *

(3) A vessel operator cannot change any aspect of a vessel's VMS activity code outside of port, except as follows:

(i) An operator of a NE multispecies vessel is authorized to change the category of NE multispecies DAS used (i.e., flip its DAS), as provided at § 648.85(b), or change the area declared to be fished so that the vessel may fish both inside and outside of the Eastern U.S./Canada Area on the same trip, as provided at § 648.85(a)(3)(ii)(A).

(ii) An operator of a vessel issued both a limited access NE multispecies permit and a limited access monkfish Category C or D permit is authorized to change the vessel's DAS declaration under the following circumstances:

(A) From a NE multispecies Category A DAS to a trip also using a monkfish DAS, as provided at § 648.92(b)(1)(iii)(A);

(B) From a NE multispecies sector non-DAS trip to a NE multispecies sector trip using a NE multispecies Category A DAS when fishing in the monkfish Northern Fishery Management Area (NFMA), if that vessel is participating in a sector; or

(C) From a trip under a monkfish-only DAS to a trip under both a monkfish and a NE multispecies Category A DAS when fishing in the monkfish NFMA, if that vessel is participating in a sector.

* * * * *

3. In § 648.14, revise paragraph (m)(2)(i) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(m) * * *

(2) * * *

(i) Fish with or use nets with mesh size smaller than the minimum mesh size specified in § 648.91(c) while fishing under a monkfish DAS, except as authorized by § 648.91(c)(1)(iii).

* * * * *

4. In § 648.80, revise paragraphs (b)(2)(iv), (b)(6)(i)(A), (b)(7)(i)(A) – (B), the introductory text to paragraph (c)(2)(v), and (c)(5) to read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(b) * * *

(2) * * *

(iv) *Gillnet vessels*. For Day and Trip gillnet vessels, the minimum mesh size for any sink gillnet not stowed and not available for immediate use as defined in §648.2, when fishing under a DAS in the NE multispecies DAS program or on a sector trip in the SNE Regulated Mesh Area, is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), to vessels fishing with gillnet gear under a monkfish-only DAS in the SNE Dogfish Gillnet Exemption Area in accordance with the provisions specified under paragraph (b)(7)(i)(A) of this section; to vessels fishing with gillnet gear under a monkfish-only DAS in the Mid-Atlantic Exemption Area in accordance with the

provisions specified under paragraph (c)(5)(ii) of this section; or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters. Day gillnet vessels must also abide by the tagging requirements in paragraph (a)(3)(iv)(C) of this section.

* * * * *

(6) * * *

(i) * * *

(A) A vessel fishing under the SNE Monkfish and Skate Gillnet Exemption may only fish for, possess on board, or land monkfish as specified in § 648.94(b), spiny dogfish up to the amount specified in § 648.235, and other incidentally caught species up to the amounts specified in paragraph (b)(3) of this section.

* * * * *

(7) * * *

(i) * * *

(A) A vessel fishing under the SNE Dogfish Gillnet Exemption may only fish for, possess on board, or land dogfish and the bycatch species and amounts specified in paragraph (b)(3) of this section, unless fishing under a monkfish DAS. A vessel fishing under this exemption while on a monkfish-only DAS may also fish for, possess on board, and land monkfish up to the amount specified in § 648.94.

(B) All gillnets must have a minimum mesh size of 6-inch (15.2-cm) diamond mesh throughout the net. A vessel fishing under this exemption while on a monkfish-only DAS may not fish with, possess, haul, or deploy more than 50 roundfish gillnets, as defined in § 648.2.

* * * * *

(c) * * *

(2) * * *

(v) *Gillnet vessels*. For Day and Trip gillnet vessels, the minimum mesh size for any sink gillnet, not stowed and not available for immediate use as defined in § 648.2, when fishing under a DAS in the NE multispecies DAS program or on a sector trip in the MA Regulated Mesh Area, is 6.5 inches (16.5 cm) throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) × 3 ft (0.9 m), (9 sq ft (0.81 sq m)), to vessels fishing with gillnet gear under a monkfish-only DAS in the Mid-Atlantic Exemption Area in accordance with the provisions specified under paragraph (c)(5)(ii) of this section, or to vessels that have not been issued a NE multispecies permit and that are fishing exclusively in state waters.

* * * * *

(5) *MA Exemption Area*. (i) The MA Exemption Area is that area that lies west of the SNE Exemption Area defined in paragraph (b)(10) of this section.

(ii) *Monkfish/Spiny Dogfish Exempted Gillnet Fishery*. A vessel fishing on a monkfish-only DAS may fish with, use, or possess gillnets in the MA Exemption Area with a mesh size smaller than the minimum size specified in paragraphs (b)(2)(iv) or (c)(2)(v) of this section, provided the vessel complies with the following requirements:

(A) *Number of nets*. Notwithstanding the provisions specified in paragraphs (c)(2)(v)(A) and (B) of this section and § 648.92(b)(8), a vessel fishing on a monkfish-only DAS within the MA Exemption Area may not fish with, possess, haul, or deploy

more than 50 roundfish gillnets, as defined in § 648.2.

(B) *Minimum mesh size.* The minimum mesh size for any roundfish gillnet not stowed and available for immediate use by a vessel fishing on a monkfish-only DAS within the MA Exemption Area is 5 inches (12.7 cm) throughout the entire net.

(C) *Possession limits.* A vessel fishing on a monkfish-only DAS within the MA Exemption Area may fish for, possess on board, or land monkfish up to the amount specified in § 648.94, spiny dogfish up to the amount specified in § 648.235, and other incidentally caught species up to the amounts specified in paragraph (b)(3) of this section.

* * * * *

5. In § 648.91, revise paragraph (c)(1)(iii) to read as follows:

§ 648.91 Monkfish regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(c) * * *

(1) * * *

(iii) *Gillnets while on a monkfish DAS.* The minimum mesh size for any gillnets used by a vessel fishing under a monkfish DAS is 10-inch (25.4-cm) diamond mesh, unless:

(A) The owner or operator of a limited access NE multispecies vessel fishing under a NE multispecies category A DAS with gillnet gear in the NFMA changes the vessel's DAS declaration to a monkfish DAS through the vessel's VMS unit during the course of the trip in accordance with the provisions specified under § 648.92(b)(1)(iii);

(B) A vessel issued a Category C or D limited access monkfish permit is fishing

under both a monkfish and NE multispecies Category A DAS in the SFMA using roundfish gillnets, as defined at § 648.2, with 6.5-inch (16.5-cm) diamond mesh;

(C) A vessel issued a limited access monkfish permit is fishing on a monkfish-only DAS in the Mid-Atlantic Exemption Area using roundfish gillnets with a minimum mesh size of 5 inches (12.7 cm) in accordance with the provisions specified under § 648.80(c)(5); or

(D) A vessel issued a limited access monkfish permit is fishing on a monkfish-only DAS in the Southern New England Dogfish Exemption Area using roundfish gillnets with a minimum mesh size of 6 inches (15.2 cm) in accordance with the provisions specified under § 648.80(b)(7).

* * * * *

6. In §648.92, revise paragraph (b)(1)(i) to read as follows:

§ 648.92 Effort-control program for monkfish limited access vessels.

* * * * *

(b) * * *

(1) * * *

(i) *General provision.* Each vessel issued a limited access monkfish permit shall be allocated 46 monkfish DAS each fishing year, which must be used in accordance with the provisions of this paragraph (b), unless the permit is enrolled in the Offshore Fishery Program in the SFMA, as specified in paragraph (b)(1)(iv) of this section. The annual allocation of monkfish DAS to each limited access monkfish permit shall be reduced by the amount calculated in paragraph (b)(1)(v) of this section for the research DAS set-aside. Unless otherwise specified in paragraph (b)(2) of this section or under this subpart

F, a vessel issued a limited access NE multispecies or limited access sea scallop permit that is also issued a limited access monkfish permit must use a NE multispecies or sea scallop DAS concurrently with each monkfish DAS utilized.

* * * * *

7. In §648.94, revise paragraphs (b)(1) and (b)(3)(i) to read as follows:

§ 648.94 Monkfish possession and landing restrictions.

* * * * *

(b) * * *

(1) *Vessels fishing under the monkfish DAS program in the NFMA--*

(i) *Category A vessels.* A limited access monkfish Category A vessel that fishes exclusively in the NFMA under a monkfish DAS may land up to 1,250 lb (567 kg) tail weight or 3,638 lb (1,650 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(ii) *Category B vessels.* A limited access monkfish Category B vessel that fishes exclusively in the NFMA under a monkfish DAS may land up to 600 lb (272 kg) tail weight or 1,746 lb (792 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(iii) *Category C vessels.* A limited access monkfish Category C vessel that fishes exclusively in the NFMA under a monkfish-only DAS may land up to 1,250 lb (567 kg) tail weight or 3,638 lb (1,650 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A limited access monkfish Category C vessel that fishes exclusively in the NFMA under both a monkfish and NE multispecies DAS may possess and land an unlimited amount of monkfish. For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

(iv) *Category D vessels.* A limited access monkfish Category D vessel that fishes exclusively in the NFMA under a monkfish-only DAS may land up to 600 lb (272 kg) tail weight or 1,746 lb (792 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A limited access monkfish Category D vessel that fishes exclusively in the NFMA under both a monkfish and NE multispecies DAS may possess and land an unlimited amount of monkfish. For every 1 lb (0.45 kg) of tail only weight landed, the vessel may land up to 1.91 lb (0.87 kg) of monkfish heads only, as described in paragraph (a) of this section.

* * * * *

(3) * * *

(i) *NFMA.* Unless otherwise specified in paragraph (b)(1) of this section, a vessel issued a limited access monkfish Category C permit that fishes under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA may land up to 600 lb (272 kg)

tail weight or 1,746 lb (792 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A vessel issued a limited access monkfish Category D permit that fishes under a NE multispecies DAS, and not a monkfish DAS, exclusively in the NFMA may land up to 500 lb (227 kg) tail weight or 1,455 lb (660 kg) whole weight of monkfish per DAS (or any prorated combination of tail weight and whole weight based on the conversion factor for tail weight to whole weight of 2.91). A vessel issued a limited access monkfish Category C, D, or F permit participating in the NE Multispecies Regular B DAS program, as specified under § 648.85(b)(6), is also subject to the incidental landing limit specified in paragraph (c)(1)(i) of this section on such trips.

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[FR Doc. 2016-14888 Filed: 6/22/2016 8:45 am; Publication Date: 6/23/2016]